



## Kennedy and Feinstein Urge More Hearings On Haynes So That The 20 High Ranking Military Leaders Who Oppose His Nominations Can Testify

July 12, 2006

**Washington, DC** – Following yesterday's Judiciary Committee on the controversial judicial nomination of William J. Haynes, Senators Kennedy and Feinstein sent the following letter calling for more hearings so that the Committee can hear testimony from the twenty high-ranking former military leaders who have spoken out against his confirmation.

The Senators contend that when a nominee to high judicial or executive office has been alleged to have engaged in serious and disqualifying activities, hearings should be extended, as they have in the past, and witnesses with first-hand knowledge of the facts should be invited to appear.

*The text of the letter is below.*

July 11, 2006

The Honorable Arlen Specter  
Chairman  
Senate Judiciary Committee  
711 Hart Senate Office Building  
Washington, DC 20510

The Honorable Patrick Leahy  
Ranking Member  
Senate Judiciary Committee  
433 Russell Senate Office Building  
Washington, DC 20510

Dear Arlen and Pat:

We write with regard to the extraordinary letter you received from 20 high-ranking former military leaders who are profoundly concerned about the judicial nomination of William J. Haynes. They raise the most serious and disturbing questions about his activities as General Counsel of the Department of Defense. The issues discussed in their letter demand the Committee's closest attention and immediate action. The fact that these military professionals, 18 of whom are retired Generals and Admirals, would publicly question the qualifications of Mr. Haynes for a lifetime appointment to the federal bench confirms that we cannot treat the issues in this nomination routinely or lightly.

At the very least, members of this group should be asked to testify, so that we can hear first-hand and in detail about Mr. Haynes' personal role, as their letter says, in "establishing – over the objections of uniformed military lawyers – detention and interrogation policies in Iraq, Afghanistan, and Guantanamo which led not only to the abuse of detainees in U.S. custody but to a dangerous abrogation of the military's long-standing commitment to the rule of law."

They have urged us, before we vote on this nomination, "to conduct a thorough examination of his views on the law in this area and his role in facilitating the adoption of policies that compromised military values, ignored federal and international law, and damaged America's reputation and world leadership." We had a chance to begin doing so today, but to make our examination truly thorough, we should also hear directly from these courageous military men and women, who were direct participants in the events and communications at issue.

As their letter states, "Mr. Haynes was arguably in the strongest position of any other senior government official to sound the alarm about the likely consequences for military personnel of the views being put forward by the Justice Department, because he had the benefit of the clear and unanimous concerns voiced by the uniformed Judge Advocates General of each of the military services.... [They] clearly and repeatedly expressed their concerns about the impact these policies would have both on the reputation of the United States and on the integrity and safety of military personnel. The Army Judge Advocate General, Maj. Gen. Thomas Romig, warned that this disdainful approach toward the Geneva Conventions and binding international law 'will open us to international criticism that the "U.S. is a law unto itself, "' and that the adoption of questionable techniques will lower international standards, 'putting our service personnel at far greater risk and vitiating many of the POW/detainee safeguards the U.S. has worked hard to establish over the past five decades.' These prescient warnings were echoed by the flag officer Judge Advocates General of the Navy, Air Force and Marine Corps. But Mr. Haynes failed to heed them. Today, it is clear that these policies, which rejected long-standing military law grounded in decades of operational expertise, have fostered animosity toward the United States, undermined rather than enhanced our intelligence gathering efforts, and added significantly to the risks facing our troops serving around the world."

We know from our experience with recent judicial nominees in general, and our prior exchanges with Mr. Haynes in particular, that he is unlikely to be responsive to our questions on these matters. To meet our responsibility to provide an adequate record to the Senate, the Committee must hear not only Mr. Haynes' version of the facts at issue but also the detailed recitation of the facts by those who worked closely with him.

Throughout our time in the Senate and on the Committee, whenever a nominee to high judicial or executive office has been alleged to have engaged in serious and disqualifying activities, we have extended our hearings and invited witnesses with first-hand knowledge of the facts to appear. We do this out of fairness to both the nominee and the Senate, as well as the American public. In one such case, even after the Committee had voted to report an Executive nominee, the Committee reopened its process and held 22 days of additional hearings, including a field hearing, to fulfill its responsibilities. We can do no less when the nomination is for a lifetime appointment to a court second only to the Supreme Court in our judicial system.

We hope you will jointly determine that we cannot have another Bybee situation, where the Committee fails to elicit and examine all the facts relevant to a nominee's fitness for the bench. At very least, we must follow up today's initial hearing with a session to hear testimony by the military leaders who authored the letter you received yesterday. We owe it to our brave troops serving around the world, as well as to all Americans, to hear these important views on Mr. Haynes' record and qualifications before we make a recommendation to the Senate.

Thank you for your continuing leadership of our Committee and for your attention to this request.

Sincerely,

Edward M. Kennedy

Dianne Feinstein

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